HON'BLE SRI JUSTICE T.CH.SURYA RAO

HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION No.22333 OF 1996

Date 18.07.2005

Between:

Smohammed Yonus Ahmed.

..... PETITIONER

AND

The Special Court under A.P.Land Grabbing (Prohibition) Act Hyderabad rep., by its Chairman at Boorugula Ramakrishna Rao Building Tank Bund, Hyderabad & others.

.....RESPONDENTS

HON'BLE SRI JUSTICE T.CH.SURYA RAO

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WRIT PETITION No.22333 of 1996

O R D E R: (per Hon'ble Sri T.Ch.Surya Rao, J)

In the instant writ petition, the writ petitioner seeks a Writ of Certiorari to quash the order dated 25-09-1996 in L.G.C.No.45 of 1991 passed by the learned Special Court under the A.P. Land Grabbing (Prohibition) Act, more particularly, the direction of the Court given *inter alia* in launching prosecution against the writ petitioner.

The facts lie in a narrow compass:

The State represented by its Revenue Divisional Officer, Hyderabad, filed an application in L.G.C.No.45 of 1991 initially against the 7th respondent and the 8th respondent was subsequently impeladed as a party thereto. The case of the Government was that the land in an extent of 4096 sq. mts. covered by T.S.No.1/1/1, Block H, Ward 10, correlating to Sy.No.403/P of Shaikpet village, Golconda Mandal, stood registered in the revenue records as Government land situate at Road No.2 of Banjara Hills. Respondents 1 to 4 grabbed the said land in individual extents as shown against their names, *inter alia*, in the application and unauthorisedly constructed pucca houses along with compound walls for residential purposes and enjoying the same for the last five years. As per the survey records, there had been no such Sy.No.403/1/Paiki. Records did not show further sub-division of Sy.No.403/1/Paiki. As per the revision survey conducted during the year

1947-1352 Fasli show that Sy.No.403 was correlated to R.S.Nos.120, 151 and 343 and in all the records, there was no survey number like 403/1/Paiki admeasuring Ac.7.00, and hence, such an entry in the subsequent revenue records was fictitious.

Respondents by filing individual counters resisted the claim of the applicant. The consistent stand of the respondents seems to be that the father of the 8th respondent by name Shaik Ahmad was shown as pattadar against Sy.No.403/1/Paiki in Khasra Pahanies and the other respondents purchased the lands by means of individual

registered sale deeds from the said Shaik Ahmad and that the District Revenue Officer, who conducted an enquiry under his proceedings dated 25-05-1991, confirmed mutation in the name of Shaik Ahmad and, therefore, Shaik Ahmad was the original pattadar and the other respondents were the subsequent purchasers of the said original pattadar.

During the course of the enquiry, three witnesses were examined on the side of the applicant and documents Exs.A.1 to A.32 were got marked. Equal number of witnesses were examined on the side of respondents and Exs.B.1 to B.23 were got marked. Appreciating the evidence adduced on either side, the learned Special Court was of the view that the entry in the revenue records made subsequently incorporating the Sy.No.403/1/Paiki, was a fictitious entry and the subsequent enquiry made under Ex.B.13, dated 25-05-1991, by the District Revenue Officer, is not valid since it was after the initiation of the proceedings under the Land Grabbing Prohibition Act before the Special Court. Having been of the said view, the learned Special Court directed the respondents to vacate the land incidentally observing that they might invoke the beneficial G.O. for regularisation of the land. While parting with the matter, having regard to the fact that number of cases were filed against late Shaik Ahmad and his sons as land grabbers, the Court directed that 8th respondent be prosecuted under Sections 3 and 4 of the A.P.Land Grabbing Prohibition Act. As aforesaid, the 8th respondent has assailed the order of the Special Court, more particularly, the direction that he be prosecuted.

The impugned order is a common order passed in L.G.C.No.45 of 1991 and L.G.C.No.12 of 1992. L.G.C.No.12 of 1992, was originally a suit, filed for perpetual injunction, O.S.No.520 of 1992 on the file of the Chief Judge-cum-Chairman, Special Tribunal, by respondents 5

and 6 herein and that suit stood transferred to the Special Court subsequently and numbered as L.G.C.No.12 of 1992, on the premise that both the parties in L.G.C.No.45 of 1991 and L.G.C.No.12 of 1992 are one and the same. It is the specific case of the State in L.G.C.No.45 of 1991 that the land in question which has been described, *inter alia*, in the application filed with reference to T.S.Nos., Sy.Nos. and boundaries at which it is situated has not been assailed by any of the respondents as incorrect. Obviously the description shows that the disputed land is a land in an extent of 4096 sq. mts. covered by T.S.No.1/1/1, Block H, Ward 10, correlating to Sy.No.403/P of Shaikpet village, Golconda Mandal, situate at Road No.2 of Banjara Hills. It has been the consistent stand by all the respondents in the counters filed, *inter alia,* that the land in question stood recorded in the name of late Shaik Ahmad covered by Sy.No.403/1/Paiki. The Government sought to explain by filing an additional concise statement in L.G.C.No.45 of 1991, that as per the survey records, there had been only one survey number viz., Sy.No.403/P of Shaikpet village, and it was not further sub-divided by issuing any subsequent sethwar. As against this specific stand taken by the Government, respondents did not show that it was factually incorrect. The fact remains that the land in dispute was covered by T.S.No.1/1/1, Block H, Ward 10, correlating to old Sy.No.403/p of Shaikpet village and there had been no subsequent sub-division of the said survey number. Much reliance has been sought to be placed by the respondents on Ex.B.13, proceedings of the District Revenue Officer, dated

25-05-1991, and a copy of ekshal Faisal Patti of the year 1967-68. The said document has not been placed before the Special Court. This document for the first time is now being pressed into service before us in the instant writ petition. Any way, it shows that an entry has been

made in this document to the effect that the land in an extent of Ac.10.07 gts. covered by Sy.Nos.122, 124, 125, 127, 128 403/1/E as per the existing pahanies stood in the name of one Shaik Ahmad and since he died, his legal heirs were added as per the proceedings No.A1/10395/67. The original document or its copy viz., khasara pahanies of the year 1964-65 has not been placed before the Special Court. Emphasis is sought to be laid on the entry made in the so-called Faisal Patti. The contention of the writ petitioner seems to be that there has been no answer about the fact that the name of the late Shaik Ahmad stood registered in the khasara pahanies as against the land covered by Sy.No.403/1/Paiki. This contention appears to be fallacious inasmuch as the document has not been, as aforesaid, filed into the Court. The main thrust of the contention on the part of the respondents seems to be on Ex.B.13. As discussed hereinabove that Ex.B.13 was the proceedings of the District Revenue Officer dated 25-05-1991, which seems to be in favour of the heirs of late Shaik Ahmad. The document is of no evidentiary value. Having regard to the obvious reason that it was the *post litem motem* document, its very existence was subsequent to filing of the land grabbing case by the State against the respondents, the evidentiary value of the document which has been brought into existence purposefully for the sake of the proceedings which had already been initiated by then can better be appreciated by any forum only in one way. Unless the document is free from any attack, it loses its significance. That apart, the learned Special Court also commented upon; having regard to the fact that disciplinary proceedings were initiated against the District Revenue Officer; for having brought into existence such type of proceedings purposefully. This fact further takes away the significance of the document. For the above reasons, we are of the considered view that the Special Court had rightly eschewed Ex.B.13, and we find no

compelling reasons to interfere with the said finding. All other documents filed in Exs.B.1 to B.23 are only the subsequent sales, maps, sanctioned plans, and they do not deal with the antecedent title of late Shaik Ahmad. It may be mentioned herewith by filing Ex.A.2, the true extract of TSLR; Exs.A.3 and A.4, extracts of pahanies; and Ex.A.9, the original plan of Shaikept village, the State-applicant, *prima facie*, was able to show that the land in dispute stood registered in the revenue records as Government land. The burden, therefore, squarely lies heavily upon the writ petitioner and other respondents, who are now before us to prove that they were not the land grabbers. The consistent stand taken by the respondents that the land in dispute stood registered in the name of late Shaik Ahmad in khasara pahanies have not been proved clearly by producing any relevant record except the xerox copies of the pahanies for the years 1968-69, 1978-79. Having regard to the evidence adduced on the point and the respective contentions, the learned Special Court was of the view that these entries had been subsequently made purposefully. The said conclusion is buttressed by one fact that there has been no sub-division of Sy.No.403/1/Paiki in the revenue records. The contention of the respondents seems to be that the name of late Shaik Ahmad stood recorded in the revenue records as against the land covered by Sy.No.403/1/Paiki, seems to be fallacious when obviously there has been no such sub-division. The existence of such sub-division number viz., Paiki appears to be fictitious and precisely that has been the finding given by the learned Special Court. There is no reason for us to conclude that such a finding is incorrect, illegal and arbitrary.

A contention seems to have been raised before the Court below that the entries in the revenue records lost their signification and relevance having regard to the fact that no notice as enjoined under the provisions of the A.P. Survey and Boundaries Act has been issued

to the respondents. Repelling the said contention, the applicant sought to rely upon Exs.A.5 and A.6, Gazette notification and extract of acknowledgment showing receipt of notice issued under Section 9(2) of A.P. Survey and Boundaries Act respectively. Therefore, even the last straw sought to be caught upon is obviously not available to the writ petitioner and the other respondents, the subsequent purchasers. We see no compelling reasons to interfere with the finding of the learned Special Court that the entries made subsequently in the revenue records showing the land covered by Sy.No.403/1/Paiki in the name of Shaik Ahamad was a fictitious entry since there was no such sub-division as per the revenue records. When it is the consistent stand of the writ petitioner and the other respondents before the learned Special Court that the land in question was covered by Sy.No.403/1/Paiki of Shaikpet village oblivious of the description as given in the schedule in form-I of the application, their contention merits no consideration. The survey number that is now being claimed by the petitioner is obviously different than the old survey number and the corresponding TS.Nos. as given in the schedule. In that view of the matter, the case of the writ petitioner cannot be sustained without any cogent reasons. Having regard to the specific observation made by the learned Special Court that number of cases had been filed against late Shaik Ahmad and his successors holding them as land grabbers and the way in which they sought to alienate the properties by trying to manipulate the revenue records, 8th respondent, writ petitioner herein be prosecuted under Sections 3 and 4 of the Land Grabbing Prohibition Act cannot also now be interfered with.

For these reasons, the Writ Petition fails and is dismissed. However no separate order as to costs.

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T.CH.SURYA RAO,J

Date:18-07-2006

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G.CHANDRAIAH,J

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